

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Sandwich Isles Communications, Inc.)	CC Docket No. 96-45
)	
Petition for Waiver of the Definition of)	
“Study Area” Contained in Part 36,)	
Appendix-Glossary and Sections 36.611,)	
and 69.2(hh) of the Commission’s Rules)	

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ submits these comments in response to the Sandwich Isles Communications, Inc. (Sandwich Isles) request for waiver of the definition of “Study Area” contained in Part 36, Appendix-Glossary and waiver of Sections 36.611 and 69.2(hh) of the Commission’s Rules (Public Notice).² NTCA supports the Sandwich Isles Petition for Waiver of the Study Area Definition.

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities. Sandwich Isles Communications, Inc. is a member of NTCA.

² *In the Matter of Sandwich Isles Communications Inc., Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary and Sections 36.611, and 69.2(hh) of the Commission’s Rules*, CC Docket No. 96-45, DA 05-105, Public Notice (rel. Jan. 18, 2005).

In determining whether or not a waiver of the rules freezing study area boundaries is warranted, the Commission must apply the following three part test: (1) whether the proposed change will adversely affect the Universal Service Support Program; (2) whether the state commission(s) having regulatory authority does not object to the change; and (3) whether the public interest will be served. The Sandwich Isles petition satisfies all three prongs of the waiver test.

1 - Sandwich Isles has demonstrated that grant of the waiver will have no notable adverse affect on the Universal Service Fund. The Commission previously concluded that study area changes would not be considered to have an adverse affect on the Universal Service Fund if grant of the waiver would not result in an annual aggregate shift in high cost support of an amount equal to or greater than one percent of the total high cost fund for the pertinent funding year. Sandwich Isles demonstrated in its petition that the total impact a grant of the waiver would have on the Universal Service Fund is less than four-tenths of one percent, well below the level considered to adversely affect the fund. Sandwich Isles further demonstrated that its reliance on universal service funding is likely to decrease as it adds more subscribers and the per loop costs decrease.

2 - There is currently no state opposition to grant of the Sandwich Isles study area waivers, satisfying the second prong of the Commission's test.

3 - The public interest is served by grant of the instant petition. Sandwich Isles has made substantial investment in the communities it serves. It provides service to customers that were unserved by larger carriers. It has invested large amounts of capital and has constructed state of the art facilities to thousands of subscribers. Grant

of the waiver would allow Sandwich Isles to continue its plans for investment and expansion. Denial of the waiver would cause the carrier to lose much of its interstate access revenue and all of its universal service support. Sandwich Isles would be forced to make up the lost revenues with significantly higher local rates. Higher local rates would not only run afoul of Section 254's obligations that rural and urban rates be comparable, the rates would also necessarily be higher than what most of the affected rural consumers could afford. Higher rates would threaten the company's continued viability and the quality service the affected rural consumers require and expect.

Sandwich Isles provides a valuable and necessary telecommunications service to the Hawaiian Islands and the people of the Hawaiian Home Lands. Grant of a waiver of the study area boundary freeze is critical to the company's ability to continue its operations and build out. For the above stated reasons, the Commission should grant Sandwich Isles Communications, Inc.'s petition for waiver of the definition of study area.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 96-45, DA 05-105 was served on this 8th day of February 2005 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

Gail Malloy

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